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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/584,157

04/19/2007

Dirk Dobrindt

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1333 7590 10/19/2009
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EXAMINER

MCCULLOUGH, MICHAEL C

ART UNIT

PAPER NUMBER

3653

MAIL DATE

DELIVERY MODE

10/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/584,157	Applicant(s) DOBRINDT, DIRK	
	Examiner MICHAEL C. MCCULLOUGH	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 31 July 2009 has been entered.

Specification

2. The amendment filed 6 July 2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: rubber-like was not defined in the originally filed application and including a definition after the filing is new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

3. Claim 1 is objected to because of the following informalities: "on a radial exterior side of at least one stacking device" in lines 8-9 should be "on a radial exterior side of the at least one stacking device". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 recites the limitation "the delivery unit" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 1 recites the limitation "the deposited sheets" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 1 recites the limitation "in particular" in line 7. It is unclear if the limitation following "in particular" is required or not. Removing "in particular" would clarify.

8. Claim 1 recites the limitation "said sheets" in line 7. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 6 recites the limitation "the drivable at least one stacking device" in line 4. There is insufficient antecedent basis for this limitation in the claim. Applicant claims the at least one stacking device is driven not drivable, possible clarifying amendments could be "the driven at least one stacking device" or "the at least one stacking device".

10. Regarding claim 7, the phrase "-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "-like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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11. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Holtje (US 5,692,740). Holtje discloses at least one stacking device (12) that rotates about an axis of rotation (14) comprises at least one tongue-shaped drag element (28a) that is on a radial exterior side of the at least one stacking member (see Figure 1), the at least one drag element being movable in the radial direction relative to the at least one stacking device (see column 6 lines 24-40), the at least one drag element is movable in the radial direction (see column 6 lines 5-24) relative to at least one input means (19a), and a stack abutment (40).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holtje (US 5,692,740) in view of Dobrindt (US 2004/0256797 A1). Holtje discloses all of the limitations of the claims but does not disclose a metal reinforcement. However, Dobrindt discloses a similar device that includes a tongue with a metal reinforcement (see Paragraph 0014) for the purpose of forming a pickup slot. It would have been obvious for a person of ordinary skill in the art at the time of the applicant's invention to modify Holtje by utilizing a metal reinforcement, as disclosed by Dobrindt, for the purpose of forming a pickup slot.

Response to Arguments

13. Applicant's arguments filed 6 July 2009 have been fully considered but they are not persuasive. Applicant's argument that the drag element corresponding to

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Applicant's claimed drag element corresponds to a different element in the prior art **does not address the rejection**. Drag element 28a of Holtje reads on Applicant's drag element as claimed. See Paragraph 7 of the Final Office Action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL C. MCCULLOUGH whose telephone number is (571)272-7805. The examiner can normally be reached on Monday-Friday, 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrick H. Mackey/
Supervisory Patent Examiner, Art
Unit 3653

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